# UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States	)	
Department of Housing and Urban	)	
Development, on behalf of Access Living of	)	
Metropolitan Chicago,	)	
	)	
Charging Party,	)	
	)	HUDALJ No.
v.	)	FHEO No. 05-97-1602-8
	)	
Andrian-Zeminides Architects, Ltd. and River's	)	
Edge Condominium Association No.1, Inc.	)	
	)	
Respondents.	)	
	)	

#### CHARGE OF DISCRIMINATION

#### I. JURISDICTION

On or about January 15, 1997, Complainant Access Living of Metropolitan Chicago ("Access Living"), an aggrieved person as defined by the Fair Housing Act, 42 U.S.C. §3601, *et seq.* ("the Act"), filed a verified Complaint, amended March 20, 1997, with the U.S. Department of Housing and Urban Development (HUD), alleging that Respondent Andrian-Zeminides Architects, Ltd. (Andrian-Zeminides Architects) and River's Edge L.L.C. violated the Act by discriminating based on disability by failing to design and construct multifamily dwellings for first occupancy after March 13, 1991, in a manner required by the Act, 42 U.S.C. §3604(f)(2) and §3604(f)(3)(C).

The Act authorizes the issuance of a charge of discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §3610(g)(1) and (2). The Secretary has delegated to the General Counsel (54 Fed. Reg. 13121), who has redelegated to the Regional Counsel (67 Fed. Reg. 44234), the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

By Determination of Reasonable Cause of September 28, 2004, the Director of the Chicago HUB, Region V, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a

<sup>&</sup>lt;sup>1</sup> Complainant and River's Edge, LLC have entered into a conciliation agreement.

discriminatory housing practice has occurred in this case based on disability and has authorized and directed the issuance of this Charge of Discrimination.

### II. <u>SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE</u>

Based on HUD's investigation of the allegations contained in the Complaint and Determination of Reasonable Cause, Respondent Andrian-Zeminides Architects is charged with discriminating against Access Living, an aggrieved person, based on disability, in violation of the Act. 42 U.S.C. §3604(f)(3)(C). The allegations that support this Charge of Discrimination are as follows:

- 1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of that person, a person residing in or intending to reside in that dwelling after it is sold, rented, or made available, or any person associated with that person. 42 U.S.C. §3604(f)(2); 24 C.F.R. §100.202(b).
- 2. For purposes of 42 U.S.C. §3604(f)(3)(C), discrimination includes a failure to design and construct covered multifamily dwellings ready for first occupancy after March 13, 1991, in such a manner that:
  - a. the public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;
  - b. all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
  - c. all premises within such dwellings contain the following features of adaptive design:
    - i) an accessible route into and through the dwelling;
    - ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
    - iii) reinforcements in bathroom walls to allow later installation of grab bars; and
    - iv) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- 3. The Act, 42 U.S.C. §3604(f)(7); 24 C.F.R. §100.201, defines "covered multifamily dwellings" as:
  - a. buildings consisting of four or more units if such buildings have one or more elevators; and
  - b. ground floor units in other buildings consisting of four or more units.

- 4. The subject property, commonly known as River's Edge Condominiums, consists of five five-story buildings located at 5225, 5255, 5320, 5340, and 5360 North Lowell Avenue, in Chicago, Illinois ("River's Edge Condominiums"). River's Edge Condominiums are further described as follows:
  - a. The buildings comprising River's Edge Condominiums contain 60, 52, 44, 52, and 52 condominium units, respectively.
  - b. The units comprising River's Edge Condominiums have at least 14 different designs.
  - c. Each of the buildings at River's Edge Condominiums have an elevator, so all units therein are covered dwellings under the Act. 42 U.S.C. §3604(f)(7); 24 C.F.R. §100.201.
  - d. Each of the buildings at River's Edge Condominiums contains interior resident parking and exterior visitor parking.
  - e. All building permits for River's Edge Condominiums were issued between May 5, 1995 and March 12, 1997. Therefore, River's Edge Condominiums were required to comply with the design and construction requirements of the Act, which apply to all covered multi-family dwellings ready for first occupancy after March 13, 1991. 42 U.S.C. §3604(f)(3)(C).
- 5. Complainant, Access Living, is a nonprofit Illinois corporation located in Chicago, Illinois that serves and advocates on behalf of persons with disabilities throughout the Chicago metropolitan area. In furtherance of its mission, Complainant runs a housing referral program, designed to assist individuals with disabilities in locating accessible housing. Complainant provides advocacy services, conducts education and outreach activities, advises public policy, and files legal actions. It also conducts fair housing "tests" to determine whether housing providers engage in discriminatory housing practices against individuals with disabilities.
- 6. Respondent Andrian-Zeminides Architects designed River's Edge Condominiums. The plans that Respondent Andrian-Zeminides Architects supplied to River's Edge L.L.C., the developer and builder of River's Edge Condominiums, did not comply with the design and construction requirements set forth in the Act. 42 U.S.C. §3604(f)(3)(C); 24 C.F.R. §100.205(c).
- 7. Respondent River's Edge Condominium Association No. 1 is the condominium association for River's Edge Condominiums and is named herein as a necessary party for purposes of implementing any remedy that may be ordered. It is not charged with violating the Act.

- 8. On or about December 20, 1996, Complainant Access Living conducted tests by measuring common areas and representative units at River's Edge Condominiums, which demonstrated that the buildings it tested were not constructed in compliance with the design and construction requirements of the Act. 42 U.S.C. §3604 (f)(3)(C).
- 9. HUD's subsequent investigation confirmed that Respondent Andrian-Zeminides designed River's Edge Condominiums in violation the Act. 42 U.S.C. §3604 (f)(3)(C). Violations include:
  - a. The common areas of River's Edge Condominiums are not designed to be readily accessible to and usable by individuals with disabilities in violation of 42 U.S.C §3604(f)(3)(C)(i) of the Act. Specifically, there are no interior "handicap" accessible parking spaces indicated on the architectural plans for Building 2 (5255 N. Lowell). As a result, on information and belief, there are no "handicap" accessible parking spaces with access aisles for the interior parking lot in Building 2. Similarly, there are no "handicap" accessible parking spaces with access aisles for the interior parking lot in Building 1 (5225 N. Lowell). Where "handicap" accessible parking spaces have been designated for exterior lots and other buildings, the access aisles have been designed too narrowly to be usable by an individual with a disability who requires the extra space to enter and exit his or her vehicle.
  - b. River's Edge Condominiums are not designed so that all the doors that allow passage into and within all premises and within such dwellings are sufficiently wide to allow passage by disabled individuals in wheelchairs in violation of 42 U.S.C §3604(f)(3)(C)(ii). Specifically:
    - i. In Building 1, sixty-one units are designed with bedroom and bathroom doors, and thirty units are designed with walk-in closet doors, that are all too narrow for passage by a person in a wheelchair;
    - ii. In Building 2, sixty-four units are designed with bedroom and bathroom doors, and twenty-two units are designed with walk-in closet doors, that are all too narrow for passage by a person in a wheelchair; and
    - iii. In Building 3, forty-four units are designed with bedroom and bathroom doors, and twenty-one units are designed with walk-in closet doors, that are all too narrow for passage by a person in a wheelchair.
  - c. River's Edge Condominiums are not designed with an accessible route into and through the covered dwelling unit in violation of 42 U.S.C §3604(f)(3)(C)(iii)(I). On information and belief, one or more units in

Buildings 1-5 were designed with sliding glass doors leading to the balconies that have thresholds that are too high to be negotiated by an individual in a wheelchair.

- d. River's Edge Condominiums are not designed so that all the units have reinforcements in bathroom walls to allow later installation of grab bars in violation of 42 U.S.C §3604(f)(3)(C)(iii)(III). Specifically, of the one hundred and fifty-six units in Buildings 1, 2 and 3, only twenty-nine units are designed with reinforcements in the bathroom walls for later installation of grab bars.
- e. River's Edge Condominiums are not designed with usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space in violation of 42 U.S.C §3604(f)(3)(C)(iii)(IV). On information and belief, one or more of the units in Buildings 1-3 are designed with U-shaped kitchens that provide an insufficient turning radius for an individual in a wheelchair to be able to enter, use all the appliances and exit the kitchen. On information and belief, one or more of the units in Buildings 1-3 are designed with bathrooms that (1) provide insufficient clear floor space past the swing of the door for an individual in a wheelchair to enter the bathroom, close the door, use the fixtures and exit the bathroom; and (2) provide insufficient clear floor space parallel or perpendicular to the base of the bathtub, so that an individual in a wheelchair can transfer from the wheelchair to the bathtub.
- 10. In interviews with a HUD investigator, the owner of Respondent Andrian-Zeminides Architects admitted that only twenty percent of the units in Buildings 1, 2 and 3 (5320 N. Lowell) of the River's Edge Condominiums were designed to be "adaptable."
- 11. By failing to design and construct River's Edge Condominiums in accordance with 42 U.S.C. §3604(f)(3)(C) of the Act, Respondent Andrian-Zeminides discriminated against the Complainant in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability. 42 U.S.C. §3604(f)(2).
- 12. Because of Respondent Andrian-Zeminides' discriminatory conduct, Complainant has suffered damages, including frustration of its mission and diversion of its resources away from other fair housing activities in which it would be otherwise engaged, including housing referral, education and outreach, testing and filing other legal actions, to address Respondent's discriminatory conduct.

## III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Regional Counsel, Region V, and pursuant to 42 U.S.C. §3610(g)(2)(A) of the Act,

hereby charges Respondent with engaging in discriminatory housing practices in violation of 42 U.S.C. \$3604(f)(2) and \$3604(f)(3)(C) of the Act, and prays that an order be issued that:

- 1. Declares that the discriminatory housing practices of Respondent Andrian-Zeminides Architects, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. §3601 *et seq.*;
- 2. Enjoins Respondent Andrian-Zeminides Architects, its agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of disability against any person in any aspect of the purchase, rental, design or construction of a dwelling;
- 3. Directs Respondent Andrian-Zeminides Architects, its agents, employees, and successors, and all other persons in active concert or participation with any of them to bring the covered units, as well as the public use and common use areas, into compliance with 42 U.S.C. §3604(f)(3)(C), including providing reasonable compensation to the owners and tenants of River's Edge Condominiums for inconvenience caused by, and other expenses related to, such retrofitting;
- 4. Awards such damages as will fully compensate Access Living, an aggrieved person, for its actual damages caused by Respondent's discriminatory conduct pursuant to 42 U.S.C. Section 3604(f)(2) and (f)(3)(C);
- 5. Awards a civil penalty against Respondent Andrian-Zeminides Architects for each violation of the Act committed pursuant to 42 U.S.C. Section 3612(g)(3); and
- 6. Orders Respondent River's Edge Condominium Association No. 1 to allow access for the purpose of implementing the court's remedy.

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. Section 3612(g)(3).

Respectfully submitted,

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